

United States District Court

Northern District of Ohio

UNITED STATES OF AMERICA

v.

John KasimerskiKaz Paving Company - Dissolved
(09cr121-002)**JUDGMENT IN A CRIMINAL CASE**Case Number: **1:09cr00121-001**USM Number: **32171-160****Mark B. Marein**

Defendant's Attorney

THE DEFENDANT:

- ☒ pleaded guilty to count(s): 1 and 2 of the Information.
- ☐ pleaded nolo contendere to counts(s) which was accepted by the court.
- ☐ was found guilty on count(s) after a plea of not guilty.

The defendant is adjudicated guilty of these offense(s):

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18U.S.C. §1343	Wire Fraud	3/2006 to 10/2008	1 and 2

The defendant is sentenced as provided in pages 2 through 8 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- ☐ The defendant has been found not guilty on counts(s) .
- ☐ Count(s) (is)(are) dismissed on the motion of the United States.

IT IS ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and the United States Attorney of material changes in the defendant's economic circumstances.

August 21, 2009

Date of Imposition of Judgment

Ann Aldrich

Signature of Judicial Officer

ANN ALDRICH, United States Senior District Judge

Name & Title of Judicial Officer

Sept. 8, '09

Date

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PROBATION

The defendant is hereby sentenced to probation for a term of 5 years on counts 1 and 2 to run concurrent
The Corporation - Kaz Paving Company is dissolved.

defendant shall not commit another federal, state, or local crime.

The defendant shall not illegally possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of placement on probation and at least two periodic drug tests thereafter, as determined by the Court.

- ☐ [x] The above drug testing condition is suspended based on the court's determination that the defendant poses a low risk of future substance abuse.
- ☒ [✓] The defendant shall not possess a firearm, destructive device or any other dangerous weapon.
- ☒ [✓] The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- ☐ [] The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- ☐ [] The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of probation that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependants and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substance, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

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CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the Schedule of Payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
Totals:	\$ 800.00	\$	\$ 4,761.389.20

- ☒ The determination of restitution is deferred until 90 days on count 2. An amended Judgment in a Criminal Case (AO 245C) will be entered after such determination.
- ☒ The defendant must make restitution (including community restitution) to the following payees in the amounts listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment unless specified otherwise in the priority order of percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

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<u>Name of Payee</u>	<u>*Total Loss</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
Legal Counsel/Altech Capital Services 33 Iverness Ctr Pkwy #200 Birmingham, AL 35242		216,488.20	
Stewart Leckey Anchor Capitol 1462 Boston Post Rd Westbrook, CT		158,787.17	
Dean Rubin-Axis Capital Srv 1797-48 Veterans Hwy Islandia, NY 11749		142,709.24	
c/o Michael Losey, Esq Balboa Capitol 2010 Main St, 11 th Floor Irvine, CA 92614		14,084.88	
Attn: Scott Hastings, President Bank of the Ozarks 17901 Chenal Pkwy Little Rock, AR 72223		209,457.25	
Attn: Leo A. Waters, Sr. Recovery & Litigaton Spec BB&T Equipment Finance 5130 Parkway Plaza Blvd Charlotte, NC 28217		85,225.29	
Fraud Department Chrysler Financial P.O. Box 9223 Farmington Hills, MI 48333		130,578.47	
Branch Manager Continental Bank 15 W. South Temple, Suite 420 Salt Lake City, UT 84101		68,979.54	
General Manager First Federal Leasing 9436 Hamilton Drive Mentor, OH 44060		56,337.51	
Fraud Department First Lease, Inc. 185 Commerce Dr. Ft. Washington, PA 19034		31,672.39	
Fraud Department GECC Commercial Equipment Finance 300 John Carpenter Freeway Irving, TX 75062		1,440,943.30	
General Manager Greystone Equipment Finance Corp.			

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25 Mail Road, Suite 411
 Burlington, MA 126,290.27

ATTN: Norm Lynn
 GSL Capitol
 4131 South State Street
 Chicago, IL 60609 402,915.16

ATTN: Todd Kaufman
 Keystone Equipment Finance Corp.
 433 New Park Avenue
 West Hartford, CT 195,000.00

ATTN Jim Grant
 Leaf Financial Corp.
 341 Storke Road
 Goleta, CA 93117 220,817.53

ATTN: Mark Rosinski
 Mericap Credit
 3333 Warrenville Road, Suite 325
 Lisle, IL 60532 217,171.14

General Manager
 Pentech Financial Services
 910 East Hamilton Ave, Suite 400
 Campbell, CA 95008 37,705.83

ATTN: Harvey Kaminski
 Prestige Capitol
 400 Kelby St., 14th Floor
 Fort Lee, NJ To be determined within 90 days of this judgment

General Manager
 Pugent Sound Leasing
 P.O. Box 1295
 Issaquah, WA 98027 49,011.70

ATTN: Allan Druch, VP
 Selig Leasing Co.
 2510 South 108th Street
 West Allis, WI 53227 55,717.81

ATTN: Robin Roberts
 Sunbridge Capital, Inc.
 6300 Nall Avenue
 Mission, KS 66202 230,780.48

General Manager
 Town & Country Finance
 Unknown 9,935.18

ATTN: Michael Laskosky, VP Operations
 United Leasing Associates of America
 3275 Intertech Drive, Suite 100
 Brookfield, WI 53045 135,229.61

General Manager
Western Finance and Lease
420 College Drive South
Devils Lake, ND 58301

26,171.25

Fraud Department
Westfield Insurance Company
1 Park Circle
Westfield Center, OH 44251

499,380.00 (paid)

TOTALS:

\$ 4,761,389.20

\$ 4,761,389.20

- ☐ Restitution amount ordered pursuant to plea agreement \$_____
- ☒ The defendant shall pay the restitution, through the Clerk of U.S. District Court. Should the defendant be unable to pay the restitution immediately, the balance should be paid at a minimum rate of 15% of the defendant's gross monthly salary.
- ☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:
- ☐ The interest requirement is waived for the ☐ fine ☐ restitution.
- ☐ The interest requirement for the ☐ fine ☐ restitution is modified as follows:

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994 but before April 23, 1996.

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SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A ☐ Lump sum payment of \$ due immediately, balance due
 ☐ not later than or
 ☐ in accordance with ☐ C, ☐ D, ☐ E, or ☐ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C ☐ D, or ☐ F below); or
- C ☐ Payment in equal installments of \$ over a period of , to commence days after the date of this judgment; or
- D ☐ Payment in equal installments of \$ over a period of , to commence days after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within (e.g., 30 or 60 days) after release from imprisonment. The Court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☐ Special instructions regarding the payment of criminal monetary penalties:
- ☒ A special assessment of \$ 200.00 for individual on counts 1 and 2 and \$400.00 for Corporation (now dissolved) is due in full immediately as to count(s) 1 and 2 total of \$800.00.
 PAYMENT IS TO BE MADE PAYABLE AND SENT TO THE CLERK, U.S. DISTRICT COURT
- ☐ After the defendant is release from imprisonment, and within 30 days of the commencement of the term of supervised release, the probation officer shall recommend a revised payment schedule to the Court to satisfy any unpaid balance of the restitution. The Court will enter an order establishing a schedule of payments.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the Clerk of the Court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

- ☐ Joint and Several (Defendant name, Case Number, Total Amount, Joint and Several Amount and corresponding payee):
- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment; (2) restitution principal; (3) restitution interest; (4) fine principal; (5) fine interest; (6) community restitution; (7) penalties; and (8) costs, including cost of prosecution and court costs.

The defendant shall provide the probation officer access to all requested financial information.

The defendant shall not incur new credit charges or open additional lines of credit without the approval of the probation officer.

The defendant shall participate in the Location Monitoring Program for a period of 12 months, to commence no later than 30 calendar days from sentencing or release from custody. The defendant shall be required to remain in his residence unless given permission in advance by the probation officer to be elsewhere. The defendant may leave his/her residence to work and receive medical treatment and to attend religious services. The defendant shall consent to be monitored by the form of location monitoring indicated below and shall abide by all of the requirements established by the pretrial services and probation office related to the use of this location monitoring technology; and submit to random drug/alcohol tests as specified by the pretrial services and probation officer. The defendant may participate in the Discretionary Leave Program under terms set by the pretrial services and probation officer. The participant shall pay the costs of participation in the location monitoring program, based on their ability to pay as directed by the pretrial services and probation officer.

Location monitoring technology at the discretion of the officer.

The defendant shall apply all monies received from income tax refunds, lottery winnings, judgments, and/or other anticipated or unexpected financial gains to the outstanding court-ordered financial obligation.

The defendant shall refrain from any unlawful use of a controlled substance and submit to one drug test within 15 days of the commencement of supervision and to at least two periodic drug tests thereafter, as determined by the pretrial services and probation officer.

While on supervision, the defendant shall not commit another federal, state, or local crime, shall not illegally possess a controlled substance, shall comply with the standard conditions that have been adopted by this Court, and shall comply with the following additional conditions:

- ☒ The above drug testing condition is suspended based on the court's determination that the defendant poses a low risk of future substance abuse.
- ☒ The defendant shall not possess a firearm, destructive device or any dangerous weapon.
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall participate in an outpatient mental health treatment program as directed by Probation

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.